

From: [Rinaldi, Gerald M](#)
To: [Smith, Clarence](#)
Cc: [Bumb, Cathleen S](#); [Smith, Steven D](#); Steve.Nightingale@illinois.gov; [Carson, Robert](#); [Watson, Rob](#); [Tanaka, Joan](#); [Cisneros, Jose](#); [Linebaugh, Stephanie Ball](#); [Bardo, Kenneth](#)
Subject: RE: Solutia W.G. Krummrich Plant - Polychlorinated Biphenyl Waste Disposal Issue
Date: Friday, March 1, 2013 5:19:23 PM
Attachments: [US EPA RCRA Final Decision.pdf](#)

Thank you for spelling out Illinois EPA's and USEPA's thoughts on this subject in yesterday's call and your e-mail below.

Solutia will respond more fully after hearing about the additional discussions that the Agencies will have next week (?) and the "USEPA ... internal discussion with their Office of Regional Counsel" noted in your e-mail. The purpose of my call this afternoon and this follow-up e-mail is to offer some suggestions for the Agencies' consideration during those discussions.

According to your e-mail:

- "the existing RCRA AOC ... must be amended ... to reflect this assumption of liability" ... "of the entirety of the Judith Lane Landfill Cell"; and
- "there may also be ... administrative action by either or both USEPA and Illinois EPA to document the change in regulatory scheme from CERCLA to RCRA."

Solutia respectfully suggests that the Agencies consider whether it may instead be possible to incorporate the above and any other new requirements into two documents that will flow from the process begun with (if not before) Solutia's July 18, 2008, applications based on use of the Judith Lane Landfill Cell, i.e.:

- a "Remedial Action Plan Permit" (RAPP) to be issued by the Illinois EPA; and
- a "TSCA PCB Coordinated Approval" to be issued by USEPA.

Another possibility to memorialize the Agencies' requirements, rather than amendment of the RCRA AOC (issued by USEPA on May 8, 2000), is amendment of the RCRA "Final Decision" (attached FYI; issued by USEPA on February 26, 2008). Given the intent of the AOC and when it was issued, it is more general than the Final Decision, which includes the following language (bottom of Page 2) specific to the subject at hand: Solutia shall "submit a corrective measures design for the excavation and off-site treatment/disposal of PCB-contaminated soil ... in the Former PCB Manufacturing Area to U.S. EPA ..." (said design, again based on use of the Judith Lane Landfill Cell, was submitted on May 28, 2008).

In closing, Solutia looks forward to hearing from Illinois EPA and USEPA after your upcoming additional discussions so that we can more fully respond and move forward.

G. M. (Jerry) Rinaldi - 2S
Solutia Inc., a subsidiary of
Eastman Chemical Company
575 Maryville Centre Drive
St. Louis, MO 63141
Phone 314-674-3312

Fax 314-674-8808
E-mail gmrina@solutia.com

From: Smith, Clarence [mailto:Clarence.Smith@illinois.gov]
Sent: Thursday, February 28, 2013 5:10 PM
To: Smith, Steven D; Rinaldi, Gerald M
Cc: Nightingale, Steve; Carson, Robert; Watson, Rob; Joan Tanaka (Tanaka.Joan@epamail.epa.gov); Cisneros, Jose (cisneros.jose@epa.gov); Linebaugh.Stephanie@epamail.epa.gov; Kenneth Bardo (Bardo.Kenneth@epamail.epa.gov)
Subject: Solutia W.R. Krummrich Plant Polychlorinated Biphenyl Waste Disposal Issue
Importance: High

Mr. Smith and Mr. Rinaldi:

This message is in follow-up to our February 28, 2013 conference call regarding the path forward for the potential disposal of Resource Conservation and Recovery Act of 1976, as amended (RCRA) regulated wastes generated at the Solutia W.R. Krummrich Plant in the Judith Lane Landfill Cell of the Sauget Area 1 Proposed National Priorities List (NPL) site which is regulated pursuant to the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended (CERCLA or Superfund).

The Illinois Environmental Protection Agency (Illinois EPA) and the United States Environmental Protection Agency (USEPA) had a conference call on Wednesday, February 20, 2013 and discussed and conceptually agreed to the following path forward:

If Solutia elects to utilize the Judith Lane Landfill Cell for the permanent disposal of the RCRA regulated polychlorinated biphenyl (PCB) wastes generated at the Solutia W.R. Krummrich Plant pursuant to a permit issued through the regulatory framework of RCRA and a USEPA issued RCRA Administrative Order on Consent (AOC), Solutia must assume full liability of the entirety of the Judith Lane Landfill Cell. This includes the closure and maintenance of the cell pursuant to the RCRA regulations, including but not limited to long-term operation and maintenance (LTOM) and financial assurance.

The existing RCRA AOC that USEPA has with Solutia must be amended prior to any disposal activities to reflect this assumption of liability. It must be understood by Solutia that if the cell is used to dispose of RCRA wastes generated through actions required by a RCRA order, that the Judith Lane Landfill Cell will remain under the jurisdiction of the RCRA program. This is due to the strict joint and several liability framework identified in Section 107 of CERCLA, and the foisting of this additional liability on the other Sauget Area 1 Proposed NPL Site potentially responsible parties (PRPs) if the regulatory framework were to revert back to CERCLA after the proposed disposal and capping in the Judith Lane Landfill Cell.

As the PCB wastes to be disposed of in the Judith Lane Landfill Cell are also regulated materials subject to The Toxic Substances Control Act of 1976, as amended (TSCA) which is administered by the United States Environmental Protection Agency (USEPA), there may be additional requirements regarding the closure and post closure care of the landfill mandated by USEPA. Approval from USEPA to dispose of the PCB wastes in the cell must also be obtained prior to any disposal activities being initiated. Solutia should discuss these matters directly with USEPA.

If the current existing CERCLA actions for the Sauget Area 1 Sites (of which the Judith Lane Landfill Cell is a part) are memorialized in a CERCLA Record of Decision (ROD) prior to the proposed disposal activities and Solutia elects to move forward with the disposal of the PCB wastes in the cell, an Explanation of Significant Differences (ESD) will be used to amend the ROD to note the regulatory scheme for the cell has changed.

There may also be some type of administrative action by either or both USEPA and Illinois EPA to document the change in regulatory scheme from CERCLA to RCRA. USEPA is having an internal

discussion with their Office of Regional Counsel regarding this matter to determine the appropriate mechanism.

With all of that being said, the proposed use of the Judith Lane Landfill Cell for the disposal of W.R. Krummrich Plant PCB wastes is a business decision that must be made by Solutia.

Please let me know if you should have any questions, need any additional information, or would care to discuss this matter further.

Respectfully,

CLS

Clarence L. Smith, Manager
Federal Site Remediation Section
Division of Remediation Management
Bureau of Land

Illinois Environmental Protection Agency
1021 North Grand Avenue, East
Post Office Box 19276
Springfield, Illinois 62794-9276

217-524-1655

"Weakness of attitude becomes weakness of character"

Albert Einstein

Notice: Any person who knowingly makes a false, fictitious, or fraudulent material statement to the Illinois EPA, either orally or in writing, commits a Class 4 felony. A second or subsequent offense after conviction is a Class 3 felony. (415 ILCS 5/44(h)).

This electronic mail message is intended exclusively for the individual or entity to which it is addressed. This message, together with any attachment, may contain confidential and privileged information of Solutia and its subsidiaries. The recipient is hereby put on notice to treat the information as confidential and privileged and to not disclose or use the information except as authorized by Solutia and its subsidiaries. Any unauthorized review, printing, retention, copying, disclosure, distribution, retransmission, dissemination or other use of, or taking of any action in reliance upon, this information by persons or entities other than the intended recipient is prohibited. If you received this message in error, please immediately contact the sender by reply email and delete all copies of the material from any computer. Thank you for your cooperation.